DOCUMENT RESUME

ED 293 356 FL 017 332

AUTHOR Adams, Eleonora K.
TITLE Training the Professional Interpreter for the Commercial and Legal Setting.
PUB DATE May 87
NOTE 36p.; In: Languages and Communication for World Business and the Professions. Conference Proceedings; see FL 017 281.
PUB TYPE Information Analyses (070) -- Speeches/Conference Papers (150) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Business Communication; Educational History; *Educational Needs; Higher Education; *Interpreters; *Job Skills; *Languages for Special Purposes; Occupational Information; Professional Associations; Second Language Instruction; Technological Advancement; *Translation
IDENTIFIERS Georgetown University DC; *IBM Corporation

ABSTRACT

The United States has been training interpreters only in the recent past, but the American penchant for technology has furthered the profession as a whole. Benchmarks in this process include machines introduced at the 1936 Paris World Fair and the Nuremberg trials, establishment of the United Nations, language services, development of the Division of Interpretation and Translation at Georgetown University, and substantial technological advancements made by IBM. Formerly, interpreters entered the profession without formal training, but this is no longer the case. The linguistic demands on interpreters are heavy, including formal language, specialized jargon, colloquial language, and dialects and heavy accents. The contexts in which the interpretor works are varied, and his role in some situations may be misunderstood. Legal and political consequences of bad translation can be far-reaching. The training available in several United States institutions is now excellent. Both general and specialized language training can be obtained. Experience provides a great deal of education, and keeping current with the times is also important preparation. However, it is not always possible to be adequately prepared to interpret obscure vocabulary or expressions. Both interpreters and translators should join professional associations, on entering the profession, to stay up-to-date in the field. Appended are: (1) the Code of Professional Responsibility for Interpreters, Transliterators and Translators in New Jersey courtrooms; (2) Bylaws of the Association of Professional Legal Interpreter/Translators of New Jersey; and (3) a proposed Assembly Bill concerning the selection, qualification, employment and supervision of legal interpreters in New Jersey. (MSE)

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TRAINING THE PROFESSIONAL INTERPRETER FOR THE COMMERCIAL AND LEGAL SETTING

by

Dr. Eleonora K. Adams
Ogontz Campus
The Pennsylvania State University

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Presented at the Sixth Annual Conference on Languages
and Communication for World Business and the Professions
sponsored by Eastern Michigan University
Ann Arbor, Michigan, May 7-9, 1987

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The Interpreter in the Legal and Commercial setting

Interpreting, the oral translation of words and ideas from one language into another has been with us as long as the existence of languages themselves, but as an organized professional activity it is a relatively recent development, especially in the United States. Unfortunately, some people even today consider interpreting as a function which can be performed by any bilingual person. Europeans were quicker to recognize the need of professional training for interpreters, and long established schools can be found in Geneva, Heidelberg, Paris, London, and other European cities.

United States entered the field of training interpreters only in the recent past. However, the American penchant for technology did influence and further the profession as a whole. "In 1936 at the Paris World Fair, IBM demonstrated two-way speaking euipment, touted as being suited for language work. Recruited to demonstrate this equipment were two very dignified League of Nations interpreters who were accustomed to very formal work, the brothers Andre and Georges Kaminker" (Parallel Int. Prof. 15). This event laid the groundwork for simultaneous interpreting as we know it today.

The next important step in the development of the profession, especially of simultaneous interpreting, was the Nuremberg trials; there the interpreting service was set up

by Colonel Leon Dostert, who had been Eisenhower's interpreter. He later organized the language service for the United Nations, then established at a temporary headquarters in Flushing Meadows. The equipment at that time was tremendously complicated--there was even a theory that the interpreter might electricute himself, and so he was connected by wire with a prong to some kind of swithchplate. A coordinating interpreter had to make sure that all interpreters were properly connected.

After organizing the service at the U.N., Colonel Dustert moved on to Washington and proposed to Georgetown University that they set up a Division of Interpretation and Translation. Today Georgetown is one of the best known interpreter training centers on the East Coast.

At the same time, Mr. Watson, then President of IBM, had more equipment built: interpreting booths and the accompanying equipment were going to be IBM's contribution to world understanding. For a long time various organizations were able to rent equipment at nominal fees. Plus, IBM supplied a bevy of engineers, much to the irritation of the other equipment companies who could not afford so many technicians. As other companies entered the equipment field, some provided makeshift equipment and cut corners to the point that interpreters' work was made impossible. At times the audience could not hear the interpreters and the interpreters could not hear the

speakers. Finally interpreters were forced to assert themselves and refused to work with faulty equipment. (Parallel Int. Prof. 16-17).

Such experiences eventually led the professional association of conference interpreters to negotiations with the International Standartization Organization and ultimately to guidelines and basic standards on equipment and working conditions for professional interpreters. (Parallel Int. Prof. 17) Today these standards are part of the by-laws of the prestgious, Washington based American Society of Interpreters.

The establishment of the U.N. interpreting service effected an evolution in the mode and style of interpreting on the whole. In San Francisco, at the meetings establishing the United Nations, much time was consumed because interpreting was done in the consecutive mode. The time-saving aspects of simultaneous interpretation led to its adoption not only at the United Nations but at other, non-governmental organizations as well. Interpreters who had worked exclusively in consecutive began working increasingly frequently in simultaneous, which later replaced consecutive as the preferred mode of interpreting for conferences. This process took about 15 to 20 years to develop. It was at this time of changeover that it became especially evident that a knowledge of language alone was not sufficient, that another skill was required to transpose a message from one language into another at simultaneous speed. Some people

could, while others could not speak while listening to another speaker. One has to be able to speak and listen at the same time. Some very competent translators cannot work in front of a microphone, yet work very well in front of a typewriter, or in consecutive interpreting situations. Why this is we do not know.

The consecutive mode however has not disappeared and is still used and at times preferred for private meetings and for legal interpreting, both in and out of court (such as on a witness stand or during depositions).

In the old days people entered the profession through the proverbial "back door". Often these were bi-lingual individuals who just happened to be where their talents were needed, at the time they were needed. They might have started out as escort interpreters to visitors to the U. S. who came here on study tours devoted to specific trades or industries, i.e. agriculture, medicine, industrial production sponsored by the government or the private sector. Others may have done escort work for A.I.D. Eventually some escort interpreters would turn to conference work. Their training took place on the job. Others were translators, such as for example the U.N. translators, who trained at the U.N. and eventually joined the interpreting staff. Formal training is stressed more and more today -- twenty or thirty years ago graduates of interpreting schools at Geneva or Heidelberg were almost a rarity. Today however

most interpreters entering the profession have had formal training.

Before we consider training, let us take a brief look at the demands that are placed on the interpreter on the job. The role of the interpreter in any setting is to transpose a message as faithfully as possible from one language into another. A good interpreter is expected to be equally comfortable with formal language, the specialized jargon of different professions and subject areas, as well as the colloquial language of the streets. At times he must be able to deal with obscure dialects and heavy accents of people who are speaking a non-native language.

In the courtroom his role may be misinterpreted by people who have never worked with an interpreter. The witness may regard him as his friend and advocate (because he may be the only one in the room who speaks his language) while seeing his own lawyer as his enemy. The witness fails to realize that the role of the interpreter is in effect one of a conduit. At times even a judge may not be familiar with a professional interpreter's function, and may treat the interpreter as an involved party. Consider also the responsibility entrusted to the interpreter. Legal implications of an inaccurate or bad translation may have far reaching consequences. Yet it is not unheard of to see a brother-in-law or a neighbor with very limited linguistic skills playing the go-btween in the middle of a crossfire between opposing lawyers who are trying to outmaneouver each

other with clever rhetoric. Even an experienced court interpreter may have a problem with the technical language and phraseology that is shorthand for lawyers. For example how is an interpreter going to say: "The defendant is entitled to a Wade hearing because there is a Wade problem in the case." (The Judicial Community ... 8). I challange the notion that an English speaking witness or defendant understands everything that is going on in the courtroom: such as calls for motions or applications, when lawyers are arguing a legal or factual point, when judges are making a ruling.

The work of a conference interpreter is no less demanding. Whether he is dealing with the language of commerce or diplomacy, the responsibility for consequences of a faulty translation are squarely on the shoulders of the interpreter. Yet, more often than not there is an unfamiliar aspect to the material under discussion for which the interpreter cannot prepare even if he is briefed in advance on the gist of the topic.

But I am getting ahead of myself. These are problems often dicussed by seasoned professionals. My intention was to speak to you about the preparation of candidates for the profession. Today we no longer have to look to European schools as the only viable centers for the training of interpreters. Our candidates can receive excellent training here in the United States; they can even choose between the East and West Coast. On the West Coast we have among other

choises the former Army Language School at Monterray, CA. or Monterray Institute of International Studies. On the East Coast Georgetown is well known. Personally, I am more familiar with Georgetown, both with its graduates and the faculty and staff. Georgetown University and SUNY-Binghamton are two National Resource Center sites for Translation and Interpretation, established by the U.S. Department of Education. Both schools train in translation, the written transfer between languages; interpretation, the oral transfer between languages is the purview of the Georgetown site.

In recent years other, training programs have begun to spring up, as need arises, in different parts of the country both in the public and private sector. Most are in the Spanish / English language combinations. One such program is part of the Continuing Education efforts of the Dade County Community College, in Florida. This program, under the direction of Maria Elena Cardenas, I would like to use as an excellent example of what can be done with limited resources but an energetic and dedicated teaching force. In the handout distributet to you, you will see a summary of the program and the subject matter the students are expected to master. On the reverse side of the sheet is the chart used in monitoring students' progress. The program was established to meet the needs of the Spanish community of Dade County.

Another representative college or university program is at Montclair Staate College in New Jersey, which has summer study programs for interpreters, mainly in Spanish/English. Marilyn Frankenthaler, Director of the program and of Legal Studies at Montclair has written much on the subject of interpreting and the law.

Another program offering study opportunities for legal interpreters is the Summer Institute for Court Interpretation at the Unioversity of Aarizona. This program offers a certificate upon completion.

The Center for Legal Translation and Interpretation Studies at the John Jay Colege of Criminal Justice is another alternative for candidates interested in the field of interpretation and law.

There are also private programs. One that is fairly well known among interpreters is C.A.C.I., INC. - FEDERAL, a private enterprize which because of the sound of its name and address could easily be confused with a government agency.

The formal training of a professional interpreter at a school is only the beginning -- the learning process never stops. I have yet to go out on a job for which I do not have to prepare. Ocasionally you know some basics, and that is helpful, but more than often there is an unfamiliar aspect to the material under discussion. A briefing before the session is always desirable, if not always possible; so is a trip to the library.

General reading is another thing; one has to keep reading, but how do you know what subject is going to come up? You need a good general education and you have to keep up with the times, to know what people are alluding to.

Unfortunately there are times when even the most extensive preparation is not sufficient to deal with unexpected circumstances. You may have prepared the vocabulary for a certain topic but are faced with a speaker who uses an obscure dialect, or imagine the embarassement when the phrase "blue kalawaka" spoken by a Japanese turns out to be a reference to a "blue collar worker" and not an exotic blue-bird, as a colleague once admitted having translated. (Parallel Int. Prof. 42).

Upon entering the profession it is very important for the interpreter to join his professional association. This is another way to continue to grow in the profession. The aassociation with peers tends to keep us honest. Legal interpreters can join CITA. Conference interpreters may want to join ASI (even if they may not be immediately eligible to join, striving for membership will encourage sef-improvement). Both interpreters and translators should join the American Translators Association THE national professoinal organization with its headquarters in Ossining, N.Y.

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APPENDICES

CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS, TRANSLITERATORS AND TRANSLATORS

POLICY

Many persons who come before the courts are partially or completely excluded from full participation since they are not able to use English as an effective tool of communication. It is imperative that the communication barrier this represents be removed, as far as is humanly possible, so that they are placed in the same position as a similarly situated person for whom there is no such barrier. Interpreters, transliterators and translators are indispensable for assuring that such persons enjoy equal access to justice. In view of their essential role, interpreters, transliterators and translators are hereby recognized as officers of the court.

SCOPE

This code shall be binding upon all persons who interpret, transliterate or translate in connection with--

(1) any proceeding before any court of this State;
(2) any proceeding, hearing or session of a grand jury, a surrogate or any arm of the Judiciary, including but not limited to Juvenile Conference Committees, Intensive Supervision Program Panel, Child Placement Review Boards, attorney and judicial disciplinary committees, hearing officers, arbitrators and mediators;
(3) any attorney or court in connection with any matter that is or may be brought before a court;
(4) any other activity ordered by a court or conducted under the supervision of a court.

CANON 1 HIGH STANDARDS OF CONDUCT

Interpreters, transliterators and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

CANON 2 FAITHFUL AND ACCURATE CONVEYANCE OF MEANING

Interpreters, transliterators and translators shall faithfully and accurately convey the meaning of the message of the source language into the target language without embellishment, omission or explanation.

CANON 3 IMPARTIALITY AND CONFLICTS OF INTEREST

Interpreters, transliterators and translators shall be impartial and avoid any appearance of bias or favoritism. They shall not only avoid conflicts of interest but also the appearance thereof.

A. They should not, as a general rule, serve in any matter in which--
   (1) they are associates, friends, or relatives of a party, of counsel for a party, or a witness;
   (2) they, their spouse or child are a party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding; or
   (3) they have been involved in the choice of counsel.

B. Prior to providing professional services in a proceeding in court, interpreters, transliterators and translators should disclose on the record the fact of having previously provided professional services on a private basis to any of the parties involved in the matter, as well as anything else that could reasonably be construed as affecting their ability to serve impartially or as constituting a conflict of interest. This disclosure shall not include confidential information.

C. Interpreters, transliterators and translators shall not provide services for remuneration that is contingent upon the outcome of a case.

D. During the course of a trial, witness and proceedings interpreters, transliterators and translators should not have contact with any of the trial's parties, witnesses, jurors, attorneys, friends or relatives of any party, except in the discharge of official functions.

CANON 4 UNOBTRUSIVENESS

Interpreters, transliterators and translators shall be as unobtrusive as possible and shall not seek to draw inappropriate attention to themselves while performing their professional duties.

A. When interpreting or transliterating during the questioning of a witness, interpreters and transliterators should convey the speaker's emphasis and emotional tone only to the degree necessary to convey the speaker's meaning, without reenacting or mimicking the speaker's tone, emotions or dramatic gestures.

B. When interpreting or transliterating during a proceeding, interpreters and transliterators should dress and conduct themselves in a manner consistent with the dignity and solemnity of the court.

C. Interpreters and transliterators shall not interject or reveal their own feelings, moods, attitudes or beliefs while performing their professional duties.

CANON 5 LIMITATIONS OF PRACTICE

Since interpreters, transliterators and translators are responsible only for enabling others to communicate, interpreters, transliterators and translators shall not take a primary role in such communications and may take a secondary role (defined below) only as is necessary for assuring an accurate and faithful interpretation, transliteration or translation.

A. Interpreters, transliterators and translators must take care to avoid activities which may be reasonably construed to constitute the practice of law.

B. Interpreters, transliterators and translators should not engage in any other activities which may be reasonably construed to constitute a service other than interpreting, transliterating or translating while engaged in such a capacity.

C. The "secondary role" for interpreters and transliterators includes such activities as seeking direction from the court when they are unable to understand or express a word or thought, or soliciting permission to be relieved from an assignment or to moderate the rate of speech. In such instances they shall identify themselves in the third person.

D. The "secondary role" for translators includes notes that the translator believes must be included to clarify something being translated. In such instances they shall identify themselves in the third person.

CANON 6 CONFIDENTIALITY

Interpreters, transliterators and translators shall keep confidential all information required by law to be confidential which they obtain during the course of their professional duties.

CANON 7 ABSTENTION FROM COMMENT

A. Interpreters, transliterators and translators shall not publicly discuss, report or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

B. Interpreters, transliterators and translators shall not converse with jurors, witnesses, parties or attorneys except as may be required to perform their professional duties.

Canon 8 REPRESENTATION OF QUALIFICATIONS

Interpreters, transliterators and translators shall accurately and completely represent their certifications, training and pertinent experience.

CANON 9 IMPROVING SKILLS AND KNOWLEDGE

Interpreters, transliterators and translators should continually improve their skills and knowledge and shall keep informed of all statutes, rules of court and policies of the Administrative Office of the Courts which relate to the performance of their professional duties.

CANON 10 IMPEDIMENTS TO COMPLIANCE WITH CODE

A. Any interpreter, transliterator or translator who discovers anything which would impede full compliance with this code shall immediately report it to the employer or the court.

B. Interpreters, transliterators and translators shall immediately report to the presiding judge any solicitation or effort by another to induce or encourage them to violate any law, any provision of this code, or any other standard governing court interpreting and legal translating promulgated by the Administrative Office of the Courts.

ASSOCIATION OF PROFESSIONAL LEGAL INTERPRETER/TRANSLATORS OF NEW JERSEY

DRAFT

BY-LAWS

ARTICLE I - MEMBERSHIP

Membership in the Association shall not be transferable and shall take the following forms:

Class 1) FULL MEMBERSHIP - the individual seeking this class of membership must demonstrate that he/she is employed in the State of New Jersey in a capacity whose duties include legal interpreting/translating, either by official appointment or otherwise by virtue of the job they perform, be it full-time, part-time or freelance.

These members shall have full voting privileges and may be elected as Trustees of the association as provided for in these by-laws, if they are officially registered as Full Members at least 10 days in advance of the Annual Meeting.

Class 2) ASSOCIATE MEMBERSHIP - the individual seeking this class of membership must demonstrate that he/she is, or has been employed as a Professional Legal Interpreter/Translator and is either inactive in the profession or resides outside the State of New Jersey.

Class 3) STUDENT MEMBERSHIP - the individual seeking this class of membership must be a bona fide student at an accredited institution of higher education, resident of the State of New Jersey, contemplating a career as a Professional Legal Interpreter/Translator.

Class 4) HONORARY MEMBERSHIP - this class of membership may be conferred upon persons either by nomination and majority vote of the Trustees, or nomination and majority vote of the eligible members at the Annual Meeting of the Association.

Members of classes 2, 3 or 4 shall have voting privileges, but are only eligible for the status of Honorary Trustee, to act in an advisory capacity to the elected Trustees.

All members shall have the right to attend the association's annual and other meetings, to be appointed as Officers of the Association and to receive publications issued by the Association.

Upon the adoption by the State of New Jersey of any Certification Requirement for Professional Legal Interpreter/Translators, those Legal Interpreter/Translators seeking Full Member status shall show proof of such certification before being accorded this status. Non-certified candidates for membership may seek and be accorded Associate Member status until such time as they can provide proof of certification.

BY-LAWS II

ARTICLE II - FEES, DUES & ASSESSMENTS

Section a) ANNUAL DUES - The annual dues for Full Membership shall be $35.00 (thirty-five dollars) per year. The annual dues for Associate and Student Membership shall be $15.00 (fifteen dollars) per year. Honorary Members shall not be liable to pay annual dues.

Section b) FEES & ASSESSMENTS - By a two-thirds majority vote, the Trustees may levy such additional fees and assessments as they deem necessary.

Section c) CHANGE IN DUES - These annual dues may be changed by a two-thirds majority vote of the Trustees.

ARTICLE III - ASSOCIATION CALENDAR

The membership year will run from July 1 through June 30 of a given year. If a member fails to renew his/her membership before August 1, he/she shall no longer be considered to be a member of the Association. A member in default may be reinstated by paying the annual dues corresponding to the class of membership.

ARTICLE IV - CHAPTERS

At some time in the future it may become necessary and practical to form the Association into geographically based chapters. This may be accomplished by a majority vote of eligible members at an annual membership meeting, pursuant to a recommendation by the majority of the Trustees.

ARTICLE V - FINANCES

Section a) BANKING - A checking account shall be maintained in the name of the Association. The Treasurer and the Membership Secretary shall have signature authority for that account. Checks drawn on that account in any amount greater than $50.00 shall bear the signature of both the Treasurer and the Membership Secretary. Expenditures greater than $100.00 shall be approved by a majority of the Board of Trustees.

Section b) PETTY CASH - The Treasurer shall be empowered to set up a Petty Cash Fund not to exceed $50.00, and shall be required to keep an accounting of expenditures. These monies shall be used for purchase of necessary operating items.

ARTICLE VI - BOOKS AND RECORDS

Section a) MEMBERSHIP RECORDS - The Membership Secretary shall keep current records of the Association's membership, including the member's name, home and work address, telephone number(s), whether member is a court interpreter and/or legal translator, information about member's language proficiency, class of membership and whether his/her dues are paid or in default. An alphabetical list of members, by class of membership will be available for inspection by members.

Section b) FINANCIAL RECORDS - The Treasurer shall keep a balance sheet, statement of income and expenses, annual reports filed with the Secretary of State of New Jersey, and other required filings for compliance with tax-free status. These financial records will be available for inspection by the members.

Section c) MINUTES & PUBLICATIONS - The General Secretary shall keep minutes of Board meetings and minutes of the Annual Membership Meetings, records of Notices of Meetings, and copies of all publications issued by the Association, all of which will be available for inspection by the members.

ARTICLE VII - TAX EXEMPT STATUS

The Board of Trustees may act at its own discretion, by a majority vote, to seek Federal and New Jersey tax exempt status.

ARTICLE VIII - BENEFIT PLANS

The Board of Trustees may study and recommend for adoption, by a majority vote of the eligible members at an Annual Meeting, any benefit plans, such as health or life insurance, that it deems to be in the interest of the members of the Association.

ARTICLE IX - DISSOLUTION

In the event of the dissolution of the Association, any existing assets of the Association shall be transferred to a non-profit organization whose stated purpose is to represent and further the interests, education and professionalism of professional court interpreters and legal translators.

ARTICLE X - ETHICS COMMITEE & ENFORCEMENT

A) ETHICS COMMITTEE

The Ethics Committee, as established in Article 8 of the Association's Constitution, is charged with the application and enforcement of the Ethical Codes and Standards of Practice.

B) ENFORCEMENT OF ETHICS AND STANDARDS

Any Professional Legal Interpreter/Translator member found, after investigation of the Ethics Committee, to be in violation of these Codes and Standards, will be subject to disciplinary action.

Any APLIT-NJ member whose conduct becomes the subject of Ethics Committee investigation will be given a hearing, upon seven days notice of such hearing, to appear before the full Ethics Committee to answer any allegation of misconduct in violation of the Code of Ethics and/or Standards of Practice.

If the Ethics Committee declares itself satisfied, by a majority vote of its members, that the allegation of misconduct was unfounded, the investigation will be terminated and all records of it destroyed.

Should the Ethics Committee decide, by a majority vote of its members, that the allegation of misconduct was well founded, then they shall proceed to apply the appropriate disciplinary action. Such disciplinary action includes:

1) WARNING

The Professional Legal Interpreter/Translator member in question will be issued a warning, and the conduct in question will be monitored by the Ethics Committee for a period of 6 months. If, after 6 months, such conduct has not been changed or corrected, a Reprimand will be issued.

2) REPRIMAND

Any Professional Legal Interpreter/Translator member will be issued a reprimand if, six months after a Warning pursuant to Section B(1) above, the conduct which gave rise to that warning has not been changed or corrected.

2) REPRIMAND, continued.

The member's name will be placed on a list which will be provided to the New Jersey State Agency responsible for the administration of interpreting/translating services. After a reprimand has been issued, the member in question will be given a period of three months to satisfy the Ethics Committee as to appropriate changes and corrections made in the conduct which gave rise to the original warning, and of the member's intention to maintain acceptable ethical and professional standards of practice in the future.

3) EXPULSION & PUBLICATION

Any Professional Legal Interpreter/Translator member who, within three months of being issued a Reprimand pursuant to Section B(2) above, does not furnish the Ethics Committee with the evidence of corrected conduct and the assurance of his/her intention to maintain high standards of ethics and professional practice in the future, shall be expelled from the Association. In addition to this expulsion, the expelled member's name will be furnished to the New Jersey State Agency responsible for the administration of interpreting/ translating services, and to any other party the Ethics Committee deems appropriate.

The following conduct constitutes grounds for immediate expulsion:

a) Criminal conviction for accepting or soliciting a bribe from any interested party in any legal matter or a gross violation of the Professional Legal Interpreter/ Translator's obligation to maintain absolute impartiality with regard to the parties in a legal matter in which the member has participated in a professional capacity (Canons 2 and 3).

b) Gross violation of the Professional Legal Interpreter/ Translator's obligation to maintain the confidentiality of all information pertaining to a legal matter in which he/she has participated in a professional capacity (Canon 2).

c) Gross violation of the Client/Interpreter privilege, except when acting pursuant to court order (Canon 2).

d) Repeated deliberate misrepresentation by a member of his/her qualifications, training or credentials as a Legal Interpreter/Translator or repeated deliberate misrepresentation of the fact that a member has been issued a Warning or Reprimand by the Ethics Committee of the Association (Canon 4).

REVISED 9/18/86

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PROPOSED

ASSEMBLY COMMITTEE SUBSTITUTE

FOR

ASSEMBLY BILL NO. 1911

JE - 0072
SR JE - 0077
TR JE - 0054

800

AN ACT concerning the selection, qualification, employment and supervision of legal interpreters and making an appropriation therefore.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that it shall be the policy of this State to secure the rights of persons who are unable readily to understand or communicate in the English language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

2. As used in this act:

a. "Appointing authority" means the presiding judge or justice of any court; the chairman of any board, commission, or authority; the director or commissioner of any department or agency; or any other person presiding at any hearing or other proceeding in which a qualified interpreter is required pursuant to this act.

b. "A person unable readily to understand or communicate in the English language" means a person who, because the person is hearing, speech or language impaired or has a mother tongue or native language other than English, is unable to speak English or to comprehend what others say in English to the extent that the person is unable to use English effectively as a functional tool of communication for sending and receiving information, thereby partially or completely excluding the person from full participation in a legal proceeding, inhibiting the person's understanding of a criminal charge or the nature of a legal proceeding, or substantially prejudicing the person's rights.

c. "Principal party in interest" means a person who is a named party in any proceeding or who will be directly affected by the decision or action which may be made or taken.

d. "Qualified interpreter" means an interpreter or an intermediary interpreter, (1) certified by the Administrative Office of the Courts for proceedings in the Superior, tax or municipal court, before a Surrogate, a grand jury, any arm of the judiciary or court support service, or (2) for all other proceedings covered by this act, an interpreter certified by the agency.

e. "Intermediary interpreter" means an interpreter who has received the Reverse Skills Certificate or the Comprehensive Skills Certificate from the National Registry of Interpreters for the Deaf.

f. "Qualified translator" means a translator certified to translate documents pursuant to this act.

g. "Qualified speech or language interpreter" means an interpreter certified by the American Speech Language Hearing Association and licensed by the Division of Consumer Affairs of the Department of Law and Public Safety.

h. A person shall be deemed "unable to readily understand or communicate in the English language" when (1) representation of such is made by counsel or pro se litigant; or (2) the appointing authority on his own motion finds a person unable to readily understand or communicate in the English language. The appointing authority may reject a representation made under this subsection only when a reliable and valid test for communicative competence has been administered by a trained examiner and the applicant has been found to be sufficiently communicatively competent in the English language. If the test reveals evidence of a false representation, the presiding officer may invoke any sanctions to which he is entitled, including contempt.

3. The appointing authority shall appoint a qualified interpreter and, if needed, an intermediary interpreter to assist all persons who are unable readily to understand and communicate in the English language throughout the proceedings and in preparation with counsel as follows:

a. In any case before any court or grand jury in which a person who is unable readily to understand and communicate in the English language is a party, either as a complainant, defendant or witness or as a parent of a juvenile;

b. At all stages in any proceeding of a judicial or quasi-judicial nature before any State agency or county or municipal governing body or agency in which a person who is unable readily to understand and communicate in English is a principal party in interest, either as a complainant, defendant, witness or supplicant, or as a parent of a juvenile;

c. In any proceedings in which a person who is unable readily to understand or communicate in the English language may be subjected to confinement or criminal sanction or in any proceeding preliminary thereto, including a coroner's inquest, grand jury proceedings and proceedings related to mental health commitments. A person who is unable readily to understand or communicate in the English language, who has been arrested and who is otherwise eligible for release, shall not be held in custody pending the arrival of an interpreter.

d. In any proceeding of hearings of a surrogate or any arm of the judiciary, including but not limited to, juvenile conference committees, intensive supervision program panels, child placement review boards, attorney and judicial disciplinary committees and hearing officers; and

e. Any court support service.

4. In the case of a person who cannot readily understand or communicate in the English language because of a hearing, speech or language impairment, if the appointing authority finds that the interpretation is not satisfactory and that an intermediary interpreter will improve the quality of interpretation and assure effective communication, the appointing authority shall appoint an intermediary interpreter to assist the qualified interpreter. An intermediary interpreter shall be subject to the same provisions that govern a qualified interpreter under this act.

5. In any action or proceeding in which an interpreter is required to be appointed, the court or administrative authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the person involved as a participant who is unable readily to understand or communicate in the English language.

6. Whenever an appointing authority is required to appoint an interpreter, the appointing authority shall appoint a qualified interpretor. If the appointing authority finds that the qualified interpreter is inadequate to meet the needs of the person who is unable readily to understand or communicate in the English language the appointing authority shall appoint another qualified interpreter who does meet these needs.

7. a. Unapproved legal interpreters and translators may be used when the need for a legal interpreter and translator for a language which rarely appears in New Jersey's courts cannot be met given the available pool of approved legal interpreters and translators; or

b. When an approved legal interpreter or a hearing, speech or language impaired person believes that an intermediary interpreter is needed.

c. The reasons that justify the use of an unapproved interpreter shall be stated on the record.

d. Any time that a court determines that an unapproved interpreter must be used, the court shall satisfy itself on the record that the proposed interpreter:

(1) Is capable of communicating effectively with the officers of the court and the person for whom the interpreter would interpret;

(2) Knows and understands the code of ethics for legal interpreters, pursuant to section 10 of this act;

(3) Will comply with these standards of the code of ethics, (any provisions which cannot be honored shall be noted on the record); and

(4) Has taken the same oath that all legal interpreters must take in a court proceeding, pursuant to section 9 of this act.

8. a. The State Division of the Deaf in the Department of Labor, created pursuant to P.L. 1941, c. 197 (C. 34:1-69.1 et seq.) shall maintain a list of qualified interpreters and provide the list to appointing authorities upon request. The Administrative Office of the Courts shall regularly obtain a list of qualified interpreters from the New Jersey Registry of Interpreters for the Deaf and ensure that the list contains the most current information available from the registry.

b. The Audiology and Speech - Language Pathology Advisory Committee within the Division of Consumer Affairs, Department of Law and Public Safety, created pursuant to P.L. 1983, c. 420 (C. 45:3B-1 et seq.), will maintain a list of qualified interpreters for the speech or language impaired and provide the list to appointing authorities upon request.

c. Each agency required by this act to utilize qualified interpreters or translators shall maintain a list thereof and provide the list upon request, which list has been provided by the Administrative Office of the Courts in accordance with the provisions of this act. The Administrative Office of the Courts shall maintain a list of interpreters and translators qualified to serve the Judiciary, and shall provide such list upon request.

9. a. Before acting as interpreter in any court, an appointed interpreter shall swear or affirm to interpret accurately and impartially, to use appropriate modes of interpretation and to abide by the canon of ethics and applicable standards for interpreters approved by the Supreme Court.

b. Before acting as an interpreter in any legal proceeding before a body or agency other than a court, an appointed interpreter shall swear or affirm to make a true interpretation, to communicate accurately the statement of the person in the English language to the best of the interpreter's skill and judgment, to honor the canon of ethics which govern the professional conduct and practice of interpreters and to abide by any applicable rules promulgated by the appointing authority before whom the interpretor is appearing.

c. The following oath shall be administered, thus binding the legal interpreter to his affirmation throughout his employment:

On my word of honor, as an official legal interpreter (or legal translator) and officer of the courts of New Jersey, I, _____, swear to interpret accurately and impartially, to be true to the code of ethics for legal interpreters and or translators, to follow all official guidelines for legal interpreting and translating for the courts, and to discharge all of the solemn duties and obligations of legal interpretation and translation.

10. Legal interpreters and translators shall abide by the following code of ethics. A legal interpreter or translator who violates any of the provisions of this code is subject to the charge of contempt, disciplinary action or any other sanction that may be imposed by law.

a. Legal interpreters and translators shall be required to know and observe all statutes, rules of court and policies of the Administrative Office of the Court which relate directly to the execution of their professional services.

b. Legal interpreters and translators shall maintain an impartial disposition in all matters and toward all parties and shall avoid any appearance of bias; avoid conflicts of interest or the appearance thereof in matters in which they serve; clearly indicate their role as interpreter asked to participate in interviews.

(1) Prior to providing professional services in a matter, legal interpreters and translators shall disclose to the attorney or party who has requested their services all prior involvement they have had with parties and counsel for any party involved in the matter.

(2) Legal interpreters and translators shall disclose to the court and contending parties all instances in which they are acquainted with or related to any juror or witness and the extent of the acquaintance.

(3) Prior to providing professional services in a proceeding in court, legal interpreters and translators should first divulge to the presiding judge, all participating counsel and pro se parties any and all professional services which they previously provided in connection with the matter to be adjudicated.

(4) Prior to providing professional services in a proceeding in court, legal interpreters and translators shall divulge to the presiding judge, all participating counsel and pro se parties anything that might affect their ability to serve impartially or might constitute a conflict of interest; and any condition which impinges upon the objectivity of the interpreter or affects his professional independence constitutes a conflict of interest.

(5) Legal interpreters and translators shall be unobtrusive during court proceedings so that their presence permits an atmosphere as close as possible to one in which there is no language barrier; they shall not draw attention to their interpretation, and should make every effort to control overt expressions of opinion, such as surprise, sympathy, or disgust while interpreting for defendants or witnesses.

(6) Legal interpreters shall position themselves so that when interpreting witness testimony, they stand in a place where they do not obstruct the view of the witness by the judge, jury or attorneys and they shall speak at a rate, quality and volume of speech that can easily be heard and understood throughout the courtroom.

(7) Legal interpreters shall position themselves so that when interpreting for a party at counsel table, they speak or sign in an unobstrusive manner, yet one which enables the party for whom they are interpreting to understand all of their interpretation.

(8) The fees and remuneration of a legal interpreter or translator shall never be contingent upon the success or failure of the case in which he or she has been engaged.

c. Legal interpreters and translators shall protect confidential information and refrain from commenting about the case.

(1) Legal interpreters and translators shall not communicate information which has been obtained in the course of their duties but not made public, including grand jury proceedings and all confidential proceedings to anybody at any time except as required of attorneys by law.

(2) Legal interpreters and translators shall neither discuss or report on any matter in which they are engaged, or to any person, except in their official capacity. Accordingly, they should not have contact with parties, witnesses, jurors, attorneys, friends or relatives of any party during the pendency of any cause in which they are engaged, except as may be required for the proper discharge of official functions or as may be required by law.

(3) Legal interpreters and translators shall not comment or render an opinion on the propriety or impropriety of a verdict in any matter in which they have previously served; nor shall they comment at any time upon the conduct of such proceedings, except as may be required by law.

d. Once having accepted or undertaken an assignment in any court, legal interpreters and translators shall be prompt in arriving in the courtroom or other place where services are to be rendered or in completing the translation. When they cannot fulfill this obligation due to any circumstances beyond their control, they shall immediately report to the appropriate person their inability to perform as agreed.

e. Legal interpreters and translators should accept assignments only when they are confident of their capacity to perform in accordance with this code.

f. Legal interpreters and translators shall convey all of the meaning of the source language in the target language without adding to, or leaving out or modifying anything given the cultural, syntatic and lexical limit of the target language.

(1) The interpreter shall always utilize the first person singular when interpreting for witnesses or in any situation in which a conversation between two or more parties occurs in the courtroom or similar setting.

(2) The interpreter shall always interpret what is said thoroughly and accurately, omitting nothing and stating precisely what has been said, given the exigencies of grammer and syntax in both languages.

(3) The level or style of language used in the source shall be preserved in the target language. Simple, crude or obscene language shall not be dressed up nor shall sophisticated and erudite language be simplified, slang terms and phrases should be rendered in equivalent slang in the target language; if an idiom, proverb or saying cannot be literally rendered, the interpreter shall seek an equivilent idiom or relate the meaning of the original idiom or saying.

(4) When interpreting for a sworn witness, legal interpreters shall interpret each statement, even if it appears nonresponsive or confusing, and even if the witness believes he or she is making a statement to be heard only by the interpreter.

(5) Apart from the conveyance of an untranslatable idiom, as set forth above, legal interpreters and translators may explain or clarify the meaning of a word or phrase only when directed to do so by a judge or according to the standards promulgated by the Administrative Office of the Courts.

(6) Legal interpreters and translators shall not explain paralinguistic gestures or other features of body language except when directed to do so by a judge or unless they represent a significant part of the communication repertoire of the non-speaking person.

(7) When legal interpreters discover that they have made an error, they shall, if still interpreting for a witness, correct the error at once, first identifying themselves for the record. If they realize an error after the testimony has been completed, they shall request a bench or lobby conference with the judge and attorney(s) and make the correction on the record.

g. Since the only function of legal interpreters is to provide a median for enabling speakers of different languages to communicate with one another, they shall not be active participants in connection with any interpreting assignment, except as provided in this section or as may be provided by standards promulgated by the Administrative Office of the Courts.

(1) At no time shall legal interpreters converse with a juror, a witness, a party or an attorney except as permitted by standards promulgated by the Administrative Office of the Courts.

(2) Legal interpreters and translators shall not engage in activities which may reasonably be construed to constitute the practice of law such as providing legal advice and explaining legal rights or obligations. A legal interpreter or translator may convey legal advice from an attorney to a person only while that attorney is giving it. A legal interpreter who is also an attorney may not serve in both capacities in the same matter.

(3) Legal interpreters and translators shall not explain forms, services or otherwise act as counselors or advisors. A legal interpreter or translator may translate on a form for a person who is filling out the form, but may not explain or interpret the form for such a person.

(4) Legal interpreters may be active participants only when they are unable to understand the meaning of a source message or to convey the meaning in the target source message or to convey the meaning in the target language; when they believe they are no longer able to serve in a manner completely free of bias; when they find that continuing to serve would violate a law or provision of this code; or when, while interpreting in the simultaneous mode, the rate of the speaker exceeds the interpreter's ability to keep up; or when, while interpreting in the consecutive mode, the length of a statement to be interpreted approaches the interpreter's maximum capacity for recall. If any of the foregoing situations arise, legal interpreters shall immediately advise the parties and the judge, if any, and await the judge's decision.

h. Legal interpreters and translators shall accurately and completely represent their certifications, training and pertinent experience and be prepared to produce evidence of same upon request.

(1) Legal interpreters or translator shall not imply or indicate that they have a certificate or license unless they have passed all parts of the certifying or licensing examination.

(2) Legal interpreters and translators shall not imply or indicate that they enjoy a certain status unless they can produce evidence of such upon request.

i. Legal interpreters and translators shall immediately report to the presiding judge any solicitation or effort by another to induce or encourage them to violate any law or provision of this code, or any provision of standards governing legal interpreting or translating promulgated by the Administrative Office of the Courts.

11. a. An appointed interpreter shall receive a fee which is commensurate with the professional skills and knowledge required for interpreting services, together with the interpreter's actual expenses for travel and waiting time.

b. The Supreme Court shall establish rules governing the method for payment and the amount of the fee for interpreting services performed in connection with any judicial proceeding or other proceeding within its jurisdiction. The fee and actual expenses shall be paid by the court in which the interpreting services are performed.

c. In the case of any proceeding before a State agency or a county or municipal governing body or agency, the fee for interpreting services shall be paid by the agency or governing body.

12. a. The right of a person who is unable readily to understand and communicate in the English language to be interpreter shall not be waived unless the person requests a waiver in writing and in the person's native language.

b. No one shall refuse a legal interpreter and or translator if either counsel or the court deems one to be necessary.

13. Any information that the interpreter gathers from a person who is unable readily to understand and communicate in the English language pertaining to any proceeding then pending shall at all times remain confidential and privileged on an equal basis with the attorney-client privilege.

14. The Supreme Court shall promulgate standards governing the appointment, qualifications, duties and appropriate utilization of interpreters during judicial proceedings.

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15. Any State agency or county or municipal governing body or agency authorized to appoint interpreters may create and maintain full time and part time interpreting positions as may be justified by the volume of proceedings before that body or agency for which interpretive services are required.

16. Until such time as a sufficient number of interpreters have qualified pursuant to the provisions of this act, the Administrative Office of the Courts shall approve any person seeking to act as an interpreter in any court and the body or agency required to appoint an interpretor shall approve any person seeking to act as an interpretor before that body or agency. In order to be approved as an interpreter pursuant to the provisions of this section, a person must demonstrate pertinent training, skills, knowledge and expertise. Any interpreter for a deaf or hearing impaired person must be certified by the National Registry of Interpretors for the Deaf, Inc.

17. a. The Administrative Director of the Courts shall prescribe and certify the qualifications of persons who may serve as qualified interpreters or translators.

b. The chief administrator of every agency covered under this act shall adopt the certification administered by the Administrative Office of the Courts and utilize the list of interpreters developed by the Administrative Office of the Courts pursuant to section 8 of this act.

c. Interpreters for the deaf certified under a. or b. of this section shall also have been certified by the National Registry of Interpreters for the Deaf, Inc.

d. Any interpreter for the speech or language impaired person shall by certified by the American Speech Language Hearing Association.

18. a. Except as authorized by section 16 of this act, no person shall engage in the practice of legal interpreting or legal translation without first having obtained certification, except that, all practicing legal interpreters and legal translators may continue to practice until the date when the results of the first certification are published.

b. Judges shall never function as an interpreter or translator and shall always speak in the English language in any legal proceeding.

c. The counsel shall never function as an interpreter or translator and shall always speak in the English language except in confidential communication with the client.

19. There is appropriated from the General Fund $870,000.00 to the Administrative Office of the Courts to fund interpreting services for the superior and municipal courts. There is also appropriated from the General Fund $300,000.00 to the Chancellor of Higher Education in the Department of Higher Education this sum is to be used for the development of curriculum, materials, and programs for the education of legal interpreters and legal translators under the coordination of an institution of higher education, to be designated by the chancellor. It is also to be used for the implementation of these programs at designated institutions of higher education throughout the State.

20. The Administrative Office of the Courts shall submit to the Legislature within 24 months of the effective date of this act a report containing its findings and recommendations concerning the implementation of this act.

21. The following are repealed:

N.J.S. 2A:11-28;

N.J.S. 2A:11-29;

N.J.S. 2A:11-30; and

P.L. 1983, c. 564 (C. 34:1-69.7 to C. 34:1-69.17).

22. This act shall take effect immediately and section 16 of this act shall expire five years following enactment.